

EXHIBIT 3

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3
4 E. Jean Carroll,)
5 Plaintiff,)
6 vs.) Case No.
7 Donald J. Trump,) 1:22-CV-10016-LAK
8 Defendant.)
9 _____)
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14 VIDEO DEPOSITION OF ROBERT J. FISHER

15 Via Zoom Videoconference

16 Monday, February 6, 2023
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21 Reported by:

22 LISA MOSKOWITZ, CA CSR 10816, RPR, CRR, CLR,

23 Washington CSR 21001437, Nevada CCR 991,

24 NCRA Realtime Systems Administrator

25 JOB NO. 222071

1 In Carroll II, as you're talking
2 about, I was asked to do just an expert
3 report, and it had nothing to do with
4 rebuttal reports but do an expert report in
5 that case.

6 Q. And by you were asked, you were
7 asked by defendant's counsel; is that
8 correct?

9 A. Yes, that's correct.

10 Q. Mr. Fisher who's on the line
11 today -- I'm sorry. Mr. Swift.

12 A. Mr. Swift, yes. He can claim my
13 name. That's fine.

14 Q. So is it your testimony that your
15 report in Carroll II which was dated
16 January 30, 2023, was not a rebuttal report?

17 A. No, not at all. No. In Carroll I,
18 I was specifically retained to do -- as a
19 rebuttal expert, and my main task was to do
20 a rebuttal report, and we had two
21 subsequent -- or one deposition over two
22 periods.

23 In rebuttal II after the
24 plaintiff -- I'm sorry. In Carroll II when
25 the plaintiff refiled, they asked me to do

1 an expert report which had nothing to do
2 with rebutting anything. It was just
3 strictly to do a report on -- as an expert
4 in that case.

5 So the first one was a rebuttal
6 report. The second one was a plain expert
7 report.

8 Q. Okay.

9 So your position is that your
10 report in Carroll II is not a response to or
11 rebuttal of Professor Humphreys' report in
12 Carroll II?

13 A. No. In fact, I didn't even read --
14 Professor Humphrey did two reports. She did
15 a rebuttal report -- or she did a report on
16 the June 21, June 22, and June 24 statements
17 of Mr. Trump. I wrote -- and then she filed
18 a report on that. I wrote a rebuttal report
19 on that.

20 Subsequently Mr. Trump made other
21 statements on October 12, 2022, of which
22 case subsequent to that, the plaintiff filed
23 a second lawsuit which included battery I
24 think, as well as defamation. I was asked
25 after that to do a full expert report based

1 on her, you know, her new complaint
2 addressing defamation. None of it has to do
3 anything -- Professor Humphreys subsequently
4 did a second report based on the October 12
5 statement. I was not asked to do a rebuttal
6 report on her second report and, as a matter
7 of fact, I didn't even read it. I skimmed
8 it, but I'm not here to talk about her
9 second report.

10 Q. Understood.

11 A. Okay.

12 Q. And so I'm going to -- we'll mark
13 this as Fisher 1.

14 (Exhibit Number 1 was marked
15 for identification.)

16 BY ATTORNEY CRAIG:

17 Q. The court reporter just handed you
18 a document marked as Exhibit 1. Is this the
19 report you prepared in Carroll II and issued
20 on January 30, 2023?

21 A. That's correct.

22 Q. Okay. How many hours did it take
23 you to draft this report?

24 A. I don't know exactly, but I'm going
25 to guess probably around 12, 15 hours.

1 give context and perspective when I guess
2 it's not needed sometimes.

3 Q. Have you developed any new methods
4 or methodologies or techniques as part of
5 your work since your Carroll I deposition?

6 A. No, because those methodologies are
7 rock solid. There's no reason to reinvent
8 the wheel when they are accepted
9 methodologies, and they're effective
10 methodologies.

11 Q. And would you say your methodology
12 in Carroll II is similar to your methodology
13 in Carroll I?

14 A. I would say so, yes.

15 Q. Okay.

16 And if we can look at your report
17 which is Exhibit 1 which you still have in
18 front of you, I just had a -- on page 2 --

19 A. Oh, they're back and back. That's
20 unusual. Okay. I went from 1 to 3, and I
21 thought a page was missing. Yes, go ahead.

22 Q. Do you see there's a section in the
23 middle of the page with the title Media
24 Expert/Analysis?

25 A. Yes.

1 it's relevant to the case, yes, I do list
2 it.

3 But usually that only comes in the
4 form of media articles for the most part.

5 Q. And those relevant media articles
6 in this case are the six that we are talking
7 about before?

8 A. Yeah. One other thing too is if I
9 come across a legal document on the internet
10 which they haven't provided me, then I would
11 put that down as well. I would record that
12 because that's -- that's specifically
13 related to the case as opposed to the
14 background and what products this company
15 makes.

16 Q. Were there any legal documents in
17 this case that you found through your
18 internet research that you didn't -- that
19 you listed here?

20 A. No, there were none in this case
21 that I -- sometimes I come across, not often
22 but not in this case, no.

23 Q. Approximately how long did you
24 spend on your internet research in
25 connection with your Carroll II report?

1 A. I would say at most an hour,
2 maybe -- I'd say a half hour to an hour and
3 a half is generally for most cases, you
4 know, I just do a cursory look at -- you
5 know, I Google whatever it is, and then I
6 look down, scroll down and look and see if
7 there's anything.

8 So I would say 45 minutes to an
9 hour and a quarter would be average.

10 Q. Average in all your cases?

11 A. Yeah, in most cases.

12 Q. In this case 30 to 60 minutes?

13 A. Yeah, unless something like the one
14 case I had which I won't mention the name
15 of, there were like 2- or 300 media articles
16 on; so I probably spent three or four hours
17 on that. But that's a rare case.

18 Q. Are there any parts of your report
19 that are based on the internet research that
20 you did in connection with this case?

21 A. I would say -- I would say no
22 except maybe -- no, I mean, the legal
23 documents, complaints gave me information.
24 Deposition. I got a lot of good information
25 off the depositions. And the expert report.

1 that you've had in your professional
2 communications and expert witness
3 backgrounds. Are there specific previous
4 applicable experiences you drew upon in
5 preparing this Carroll II report?

6 A. I think I mean that in a general
7 sense as opposed to individual cases. No, I
8 can't say that there was a specific case or
9 more than one case. It's more or less the
10 broad overview of circumstances that
11 happened in such cases of this type.

12 Q. And did you review any files from
13 prior cases in connection with your Carroll
14 II report?

15 A. No, not in writing this report, no.

16 Q. Okay.

17 And you also write in your report
18 that you don't rely on, quote, surveys,
19 studies, tests, research, or other forms of
20 qualitative types of analyses, facts
21 gathering procedures. Is that sort of a
22 fair reflection of the type of materials you
23 didn't consider in connection with your --

24 A. Yes.

25 Q. -- Carroll II report?

1 give me any direction as to what to do. He
2 said -- she did another report based on the
3 October 12 thing.

4 I mean, he didn't ask me to read it
5 in total. He didn't ask me to comment on it
6 or anything. He just said -- I assume he
7 just thought it would be good for me for
8 background.

9 Q. Are there any parts of Professor
10 Humphreys' Carroll II report that you sought
11 to rebut in connection with your Carroll II
12 report?

13 A. No, not at all. But I did -- I do
14 have a section in this report, which I'm
15 sure you're aware of, that does discuss
16 Ms. Carroll's expert, but most of that is
17 information derived from the first report,
18 is basically on her views and opinions.

19 I did put one paragraph into this
20 report. The only thing I picked out of that
21 report in skimming it was a statistic that
22 she had related to the number of people that
23 might be influenced by Mr. Trump's comments.
24 And that's near the end of the report.

25 You know, I just made a reference

1 there was an interesting point she made in
2 the report that I thought was worth adding
3 into this report.

4 Q. Understood.

5 And is there any other part of your
6 report that addresses Professor Humphreys'
7 Carroll II report besides this paragraph?

8 A. Yes. I mention earlier in the
9 section on -- that I first addressed the
10 reputation expert. The plaintiff's expert,
11 page 21. I do note that she did do a second
12 report.

13 Q. On page 21 do you report or respond
14 to that in any way?

15 A. No, in fact, it's on page 22 a
16 third of the way down under assignments.
17 Humphreys was retained by plaintiff legal
18 counsel twice to prepare expert witness
19 reports. The first was to cover the alleged
20 false statements made by defendant on
21 June 21, 2022, and 24, 2019.

22 The second report covered his
23 October 12, 2022, statement. That's the
24 only other time in the report that I
25 referenced the second report that she did.

1 Certified Stenographer.)

2 BY ATTORNEY CRAIG:

3 Q. The six newspaper articles we
4 talked about before, is there anything
5 besides those newspaper articles?

6 A. Well, reading her biography, her
7 profile.

8 Q. Where did you see her biography?

9 A. Well, I went online and saw
10 information about her. I told you I Googled
11 her. A gal like that, she had a couple of
12 pages of content about her on there, and I
13 looked at some of it for background. As I
14 said, I looked to see who she was, and I saw
15 nothing negative whatsoever about her, not
16 unrelated to the Trump case, but I saw
17 nothing in her background that was negative.
18 It appears she was a total professional and
19 viewed that way.

20 Q. So besides the articles you
21 mentioned before and the Googling you did,
22 anything else that you considered?

23 A. Yeah, these -- I have it in my
24 report here. These articles. I quote some
25 of the articles on the Trump case, the six

1 that I listed there. I quoted some of them
2 in my report and talked about the highly
3 laudatory comments that were made in those
4 articles about her after the fact. After
5 the suit.

6 Q. Is your entire understanding of
7 Ms. Carroll's reputation based on the
8 comments in those six articles?

9 A. Well, we already talked about
10 online I saw --

11 Q. So the six articles and the
12 Googling you did?

13 A. Yeah, the Googling for the most
14 part, yeah, and also in the complaint. The
15 complaint, the original complaint and the
16 other complaint talked about her image, her
17 reputation, talked about her
18 accomplishments.

19 I mean, it's all over the place. I
20 don't deny the woman -- I never heard of her
21 before the Trump case. I mean, I live in
22 L.A. She's in New York. I don't read Elle
23 magazine. So I didn't know who she was from
24 these two people when I walked in this room.

25 The point is I did do research on

1 study? No. From looking online and looking
2 at the first ten pages of her Google
3 presence, it was clear that there was a
4 tremendous increase in articles about her or
5 exposure than there was prior to that.

6 Q. By looking -- by your reference to
7 looking at the first ten pages of Google,
8 you just mean the nature of the search
9 results that you would see if you put in
10 E. Jean Carroll's name in Google?

11 A. Yeah, in other words, you know,
12 each page has 10 to 12 things on it and you
13 go through pages 2, 3, 4, 5.

14 You know, I saw other references to
15 Ms. Carroll but not nearly the weight of the
16 exposure she received after she came forward
17 to accuse Mr. Trump of rape.

18 Q. You referred in your earlier answer
19 to you did an analysis in this report which
20 is in the next section on page 20, and those
21 articles are highly favorable toward
22 Ms. Carroll. Are you referring just to the
23 three articles you talk about on page 20 and
24 carrying over to page 21?

25 A. Yeah, in other words, on page 20

1 record.

2 (Recess taken from 2:59 p.m. to
3 3:08 p.m.)

4 THE VIDEOGRAPHER: The time is now
5 3:08 p.m., and we're back on the video
6 record.

7 BY ATTORNEY CRAIG:

8 Q. So, Mr. Fisher, if you want to turn
9 to page 22 of your report at Exhibit 1, you
10 see there's a section that has the header,
11 Reputation Repair Program?

12 A. Yes.

13 Q. And you note in here that at the
14 bottom of -- sorry. Right above that
15 section you say: While I attribute the
16 following mostly to her first report, the
17 content from my brief review from her second
18 report was the same in both her reports.

19 And then you go on to the section
20 entitled Reputation Repair Program.

21 Do you see that?

22 A. Uh-huh.

23 Q. Is it accurate to say that the text
24 of this with the exception of that one
25 paragraph on page 24 draws from your first

1 report?

2 A. Yes, yes.

3 Q. And so this is written,
4 specifically concerns the reputation repair
5 program that Professor Humphreys developed
6 in her Carroll I report?

7 A. Yeah. Most of this text was in my
8 rebuttal report. It's just since I was
9 doing an overview of the entire case, I
10 thought I should have a section in here
11 about her report. But most of this is old
12 ground covered in our first two depositions.

13 Q. And, in fact, the citations in this
14 section are to pages in Professor Humphreys'
15 first report --

16 A. Correct.

17 Q. -- from Carroll I?

18 A. Correct. 100 percent, yes.

19 Q. Is there anything different sort of
20 in substance between what's in this report
21 and then what's in your prior Carroll I
22 report?

23 A. No, I don't believe so. I think
24 that -- I mean, obviously this is only an
25 excerpt from my first report because my

1 first report was, what, 10, 12 pages. I
2 just put out -- basically from the first
3 report I just pulled out sort of the gist
4 of, you know, the important points from that
5 first report. I added in a paragraph just
6 referencing the second report which you saw.

7 And so there's no real new ground
8 break in that. It's just I thought if I was
9 doing a comprehensive report on the whole
10 case, I would have had to add in, you know,
11 something related to their expert.

12 Q. Were there any additional materials
13 that we didn't cover --

14 A. No.

15 Q. -- in your last deposition --

16 A. No.

17 Q. Let me just get the question out.

18 Are there any materials that
19 weren't addressed or covered in your last
20 deposition that you considered before
21 including this section in your Carroll II
22 report?

23 A. No, no. As I said, what I was
24 trying to do was just to kind of summarize
25 the main points I had in the -- relating to